

SUPREME COURT OF ARKANSAS

No. CR06-182

RONALD EUGENE BROWN,
APPELLANT,

VS.

STATE OF ARKANSAS,

APPELLEE,

Opinion Delivered March 9, 2006

MOTION FOR RULE ON CLERK

GRANTED.

APPEAL & ERROR – MOTION FOR RULE ON CLERK – GRANTED. – Appellant’s attorney stated in the motion that the record was tendered late due to a mistake on his part.

Motion for Rule on Clerk, granted.

Joseph P. Mazzanti, III, for appellant.

No response.

PER CURIAM.

Appellant Ronald E. Brown, by and through his attorney, has filed a motion for rule on clerk. His attorney, Joseph P. Mazzanti, III, states in the motion that the record was tendered late due to a mistake on his part. He explains that he failed to include in the order extending time within which to file the record a declaration pursuant to Ark. R. App. P.–

Civ. 5(b)(1)(C)¹ that all parties had the opportunity to be heard on the motion or waived such right. Because Mazzanti has admitted fault, this motion is granted pursuant to *McDonald v. State*, 356 Ark. 106, 146 S.W.3d 883 (2004). A copy of this opinion will be forwarded to the Committee on Professional Conduct.

¹ Rule 5 of the Arkansas Rules of Appellate Procedure – Civil applies in criminal cases. *Moore v. State*, ___ Ark. ___, ___ S.W.3d ___ (Nov. 4, 2004).